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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

FIZZ SOCIAL CORP.,

Plaintiff,

vs.

MAPLEBEAR, INC., d/b/a/ INSTACART;
PARTIFUL CO., and DOES 1-20, inclusive,

Defendants.

Case No. 3:25-cv-03995-CRB

[Assigned to the Hon. Charles R. Breyer]

FIRST AMENDED COMPLAINT FOR:

**1. COMMON LAW TRADEMARK
INFRINGEMENT**

**2. FALSE DESIGNATION OF
ORIGIN AND UNFAIR COMPETITION
(15 U.S.C. § 1125(a))**

**3. VIOLATION OF THE ANTI-
CYBERSQUATTING CONSUMER
PROTECTION ACT (15 U.S.C. § 1125(d))**

**4. VIOLATION OF CALIFORNIA'S
UNFAIR COMPETITION LAWS (Cal. Bus.
& Prof. Code § 17200 et seq.)**

**5. CONTRIBUTORY TRADEMARK
INFRINGEMENT**

**6. VICARIOUS TRADEMARK
INFRINGEMENT**

7. DECLARATORY RELIEF

Action filed: May 7, 2025

1 **FIRST AMENDED COMPLAINT**

2 Plaintiff FIZZ SOCIAL CORP. (“Fizz” or “Plaintiff”) as and for its First Amended
3 Complaint against Defendants MAPLEBEAR, INC., d/b/a Instacart (“Maplebear” or “Instacart”),
4 and Partiful, Co. (“Partiful”) (collectively, the “Defendants”) alleges:

5 **NATURE OF CASE**

6 1. From its roots on over 400 college campuses, Plaintiff has established the premier
7 social media and event planning platform that specifically targets the Generation Z (“Gen-Z”)
8 audience (the “Fizz Platform”). College students and others in the Gen-Z demographic know
9 and trust Fizz, and use Fizz to foster community and to plan events, and especially, to throw
10 parties. Plaintiff has also developed its Fizz Marketplace as a way to buy and sell goods to
11 others in their communities. As a leading platform for discourse and commerce in the Gen-Z
12 community, Plaintiff is in an enviable position for promoting e-commerce in this important
13 demographic.

14 2. Plaintiff protects its valuable FIZZ brand through trademark protection. Since
15 2022, Plaintiff has used the FIZZ trademark as a source identifier in connection with Plaintiff’s
16 social media platform and community services known as Fizz. Plaintiff has valuable trademark
17 rights in its highly reputable FIZZ™ trademark (and other variants, including the applied-for
18 marks in Plaintiff’s U.S. Application Serial Nos. 98/353,568, and 99/174,143 which are
19 currently pending with the USPTO, collectively, the “FIZZ Marks”). As a result, Plaintiff has
20 built up substantial goodwill in its FIZZ Marks, and a strong reputation, including brand
21 recognition, for the social platform it operates under the FIZZ Marks (the “Fizz Platform”).

22 3. Defendant Partiful offers a competing app for throwing parties and events.
23 Partiful also targets a Gen-Z audience.

24 4. Instacart is the well-known e-commerce behemoth, which has developed its
25 reputation by facilitating regular grocery store shopping for families. By its nature, Instacart
26 has targeted an older demographic.

27 5. On May 6, 2025, Instacart launched a marketing blitz to break through and
28 capture the Gen-Z demographic. That day, Instacart announced its partnership with Partiful to

1 deploy its e-commerce platform and turn its attention on parties for the Gen-Z demographic.
2 Exploiting the FIZZ Marks and the goodwill that Plaintiff has accrued in its FIZZ brand,
3 Instacart has launched a new app called “Fizz” (the “Fizz App”). Expressly, Instacart is
4 targeting the Gen-Z audience. As reported in an interview with TechCrunch: “The social, party-
5 planning aspect of Fizz enables the company to tap into a younger demographic that may not be
6 using Instacart.” See [https://techcrunch.com/2025/05/06/instacart-launches-fizz-a-new-app-for-](https://techcrunch.com/2025/05/06/instacart-launches-fizz-a-new-app-for-ordering-drinks-and-snacks-for-parties/)
7 [ordering-drinks-and-snacks-for-parties/](https://techcrunch.com/2025/05/06/instacart-launches-fizz-a-new-app-for-ordering-drinks-and-snacks-for-parties/) (last accessed May 7, 2025).

8 6. Instacart has incorporated a social component into its platform, seeking to drive
9 adoption with the Gen-Z audience. As reported by TechCrunch, “Instacart is taking a different
10 approach by incorporating a social aspect in its new app, as it aims to capture the attention of
11 Gen Z and millennials to drive its success.” *Id.*

12 7. This new Fizz App by Instacart and Partiful is a blatant attempt to misappropriate
13 the goodwill that Plaintiff has painstakingly developed through its continuous use of the FIZZ
14 Marks among the Gen-Z demographic. Together, Instacart and Partiful are competing head-on
15 with Plaintiff in its core market of event planning for the Gen-Z demographic. Instacart and
16 Partiful could have chosen any name for their new venture, but rather than compete on an even
17 playing field, they are using FIZZ—a mark identical to Plaintiff’s in connection with the Fizz
18 App (“Infringing Mark”). Accordingly, Defendants’ unauthorized use of the FIZZ Marks is not
19 only likely to cause confusion as to the association, sponsorship, and/or approval of Defendants’
20 social event promotion and planning mobile application and services, it also constitutes bad
21 faith.

22 8. Plaintiff brings this action based on Defendants’ past, current, and planned use of
23 the FIZZ trademark in connection with collaborative event promotion and planning, social
24 discovery, and social networking services targeting the same Gen-Z consumer base that Plaintiff
25 has served since at least January 2022. Plaintiff alleges claims for federal trademark
26 infringement and unfair competition under Sections 43(a) of the Trademark Act of 1946 (the
27 “Lanham Act”), 15 U.S.C. § 1125(a), for cybersquatting under the Anti-Cybersquatting
28 Consumer Protection Act, 15 U.S.C. § 1125(d)(1), and for substantial and related claims of

1 unfair competition and common law trademark infringement arising under California law.

2 **PARTIES**

3 9. Plaintiff Fizz is a corporation organized under the laws of Delaware, which was
 4 founded at Stanford University in Palo Alto, and having had its principal place of business
 5 located at 2335 El Camino Real; Palo Alto, California. On or about March 3, 2025, Plaintiff
 6 moved its principal place of business to 584 Broadway St., New York, NY 10012. Plaintiff is
 7 the owner of the FIZZ Marks, which Plaintiff has been using in the stream of commerce since at
 8 least as early as 2022. Plaintiff is also the owner of the public U.S. Application Serial Nos.
 9 98/353,568, and 99/174,143 which are currently pending with the USPTO.

10 10. Plaintiff is informed and believes and thereupon alleges that Defendant Instacart
 11 is a corporation organized under the laws of Delaware with a principal place of business located
 12 in 50 Beale Street, Suite 600, San Francisco, California 94105. According to Instacart, it has
 13 created, developed, and launched the Fizz App. *See*
 14 [https://techcrunch.com/2025/05/06/instacart-launches-fizz-a-new-app-for-ordering-drinks-and-](https://techcrunch.com/2025/05/06/instacart-launches-fizz-a-new-app-for-ordering-drinks-and-snacks-for-parties/)
 15 [snacks-for-parties/](https://techcrunch.com/2025/05/06/instacart-launches-fizz-a-new-app-for-ordering-drinks-and-snacks-for-parties/) (Last accessed May 7, 2025).

16 11. Plaintiff is informed and believes and thereupon alleges that Defendant Partiful is
 17 a corporation organized under the laws of New York with a principal place of business located
 18 at 147 Prince Street, PR4/11, Brooklyn, New York, NY 11201, and that Partiful has participated
 19 in, directed, or caused the acts complained of herein to occur within the Northern District of
 20 California. According to Defendant Instacart, the Fizz App was “developed in collaboration
 21 with the hugely popular event invite app Partiful.” *See*
 22 [https://www.fastcompany.com/91327971/instacart-launches-fizz-a-group-ordering-app-for-](https://www.fastcompany.com/91327971/instacart-launches-fizz-a-group-ordering-app-for-party-drinks-and-snacks)
 23 [party-drinks-and-snacks](https://www.fastcompany.com/91327971/instacart-launches-fizz-a-group-ordering-app-for-party-drinks-and-snacks) (Last accessed May 7, 2025).

24 12. Defendants DOES 1 through 20, inclusive, are unknown to Plaintiff and therefore,
 25 are sued under fictitious names. Their true names, capacities and respective liabilities are
 26 unknown to Plaintiff at this time. When their true names, capacities and respective liabilities are
 27 ascertained, Plaintiff will amend this First Amended Complaint to show the true names and
 28 capacities of DOES 1 through 20. Plaintiff is informed and believes and thereon alleges that

1 each of the fictitiously named defendants is a claimant or otherwise claims an interest in the
2 policies at issue in this action.

3 **JURISDICTION AND VENUE**

4 13. This action arises, in part, under the Lanham Act, 15 U.S.C. § 1125, *et seq.*
5 (“Lanham Act”) and this Court therefore has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a),
6 and under the Anti-Cybersquatting Protection Act, 15 U.S.C. § 1125, *et seq.*

7 14. The Court has supplemental jurisdiction over Plaintiff’s claims arising under
8 California state law pursuant to 28 U.S.C. §§ 1338(b) and 1367(a) because these claims are so
9 related to Plaintiff’s Lanham Act claim that they form part of the same case and/or controversy
10 and derive from a common nucleus of operative facts.

11 15. This Court has personal jurisdiction over Defendants because Defendants have
12 directed tortious acts that they knew or should have known would cause injury to Fizz in this
13 District. Further, Defendant Instacart, an entity involved in the development, governance and
14 expansion of the Fizz App, resides in California and has continuous, systematic and substantial
15 contacts with the State of California.

16 16. Defendant Partiful has had continuous, systematic and substantial contacts with
17 the State of California. Defendant Partiful has partnered with Defendant Instacart to launch the
18 Fizz App, including targeting states such as California, including within this District, for its
19 launch. Defendant Partiful has also integrated the Fizz App on the Partiful event page, allowing
20 users of Partiful to add items to the “Fizz Party Cart.”

21 17. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b) in that a
22 substantial part of the events or omissions giving rise to the claims herein arose in this District.
23 In particular, Defendants have used the Infringing Mark in the judicial District, including
24 advertising and promoting their social networking and event coordination app in this District.
25 In addition, Defendants regularly conduct business in this District and are actively engaged in
26 soliciting business in California, including this District.

PLAINTIFF'S VALUABLE MARKS

18. Plaintiff is the owner of all right, title, and interest in and to the FIZZ Marks, which it has continuously used in commerce throughout the United States since at least January 5, 2022, in connection with its widely adopted mobile application and related services, including event promotion, community engagement, and social discovery tailored to Gen-Z communities. Although registration of Plaintiff's FIZZ Marks is still pending, Plaintiff's longstanding, continuous, and exclusive use of the FIZZ Marks has established substantial goodwill and strong common law trademark rights in the FIZZ Marks. As a result of Plaintiff's extensive use, advertising, and recognition among consumers—particularly in the Gen-Z demographic—the FIZZ Marks have become a distinctive identifier of Plaintiff's brand and services. Plaintiff's rights in the FIZZ Marks predate Defendants' first use in 2025, and are enforceable under common law.

19. Plaintiff is also the owner of U.S. Trademark Application Serial Nos. 98/353,568¹ and 99/174,143 for the FIZZ Marks, which was filed with the United States Patent and Trademark Office on January 11, 2024, and May 7, 2025, respectively, and remain pending (the "Fizz Applications"). The Fizz Application No. 98/353,568 covers Plaintiff's use of the FIZZ Marks in connection with its mobile application in Class 009 and related digital services in Classes 035 and 042. A copy of the Fizz Application No. 98/353,568 is attached hereto as **Exhibit 1** and incorporated herein by reference. The Fizz Application No. 99/174,143 covers Plaintiff's use of the FIZZ Marks in connection with its mobile application in Class 009 and related digital services in Classes 035, and claims date of first use in commerce as January 5, 2022. A copy of the Fizz Application No. 99/174,143 is attached hereto as **Exhibit 2** and incorporated herein by reference.

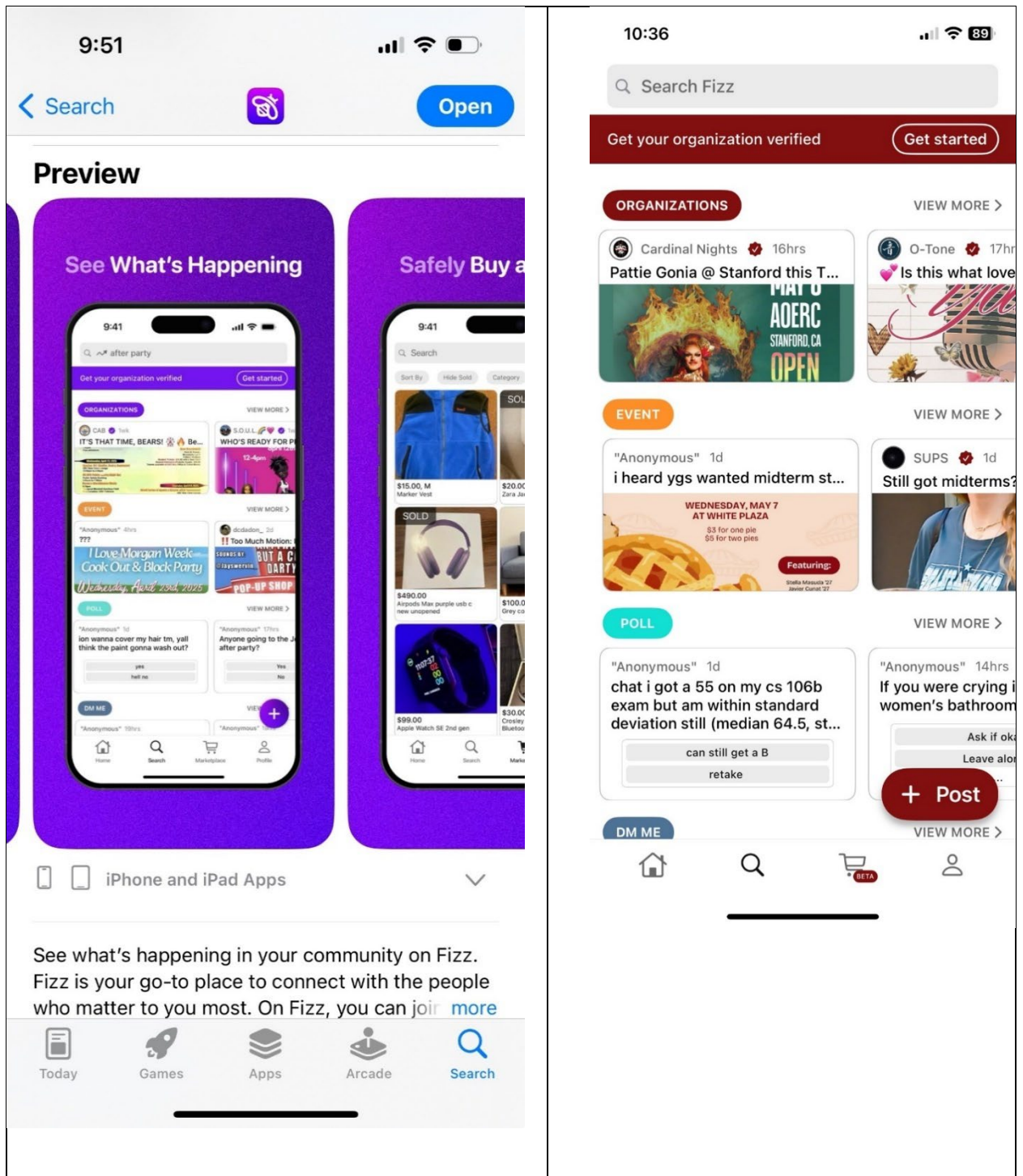
20. Plaintiff has created an innovative social platform from the ground up, solving the

¹ On March 13, 2025, the USPTO Examiner withdrew its Final refusal of the U.S. Trademark Application Serial Nos. 98/353,568, permitting Plaintiff to cure the minor issue of wording in connection with the identification of goods and services. Plaintiff has until June 11, 2025 to submit the required correction. Once submitted, the Application Serial Nos. 98/353,568 will be allowed and proceed to registration, with the priority filing date of January 11, 2024.

1 challenges of conventional event coordination and socializing. The Fizz Platform is based upon
2 a unique collaborative approach that enables its users to discover parties, organize gatherings,
3 and coordinate social events through its intuitive mobile interface. The Fizz Platform empowers
4 users to connect with peers, share event details, coordinate meetups, and build authentic
5 communities at over 400 schools nationwide and in other Gen-Z communities. Through
6 features designed specifically for social planning and community building, the Fizz Platform
7 fosters genuine connections that translate to meaningful real-world relationships and gatherings
8 throughout the Gen-Z community.

9 21. Plaintiff has used the FIZZ Marks since 2022 in connection with its Fizz Platform
10 and its business operations related thereto. In particular, Plaintiff has dedicated significant time,
11 energy and resources to developing distinctive social networking services that facilitate event
12 discovery, party planning, and community building among the Gen-Z community. These
13 services have established a recognizable brand identity within the mobile social application
14 industry, now serving Gen-Z'ers across more than 41 states who rely on the Fizz Platform to
15 coordinate gatherings including parties, discover events, and connect with peers.

16 22. Below are screenshots of Plaintiff's Fizz Platform (expanded, and zoomed-in),
17 showing its use as a party planning platform. Plaintiff promotes its Fizz Platform so you can:
18 "See what's happening in your community on Fizz." Plaintiff's Fizz Platform features an
19 "EVENT" feed, as exemplified in the below screenshots. The Fizz Platform describes that it is
20 "your go-to place to connect with the people who matter to you most":
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23. Plaintiff also offers a Fizz Marketplace for the buying and selling of goods, underscoring the importance of the Fizz Platform for e-commerce within its target Gen-Z demographic.

1 24. The FIZZ Marks are distinctive and have acquired recognition and goodwill
2 nationwide as a result of over three years of using, advertising and promoting its social
3 networking services, including event discovery, party planning, and community building
4 services. Given the highly competitive nature of social applications targeting Gen-Z users,
5 three years of continued use of the FIZZ Marks in the industry represents significant brand
6 development.

7 25. Plaintiff has also marketed its Fizz Platform using the FIZZ Marks based on
8 authenticity and community building. The Fizz Platform operates by creating networks where
9 users can share content, discover events, and coordinate gatherings with their peers. This
10 allows for a more authentic and community-focused social experience. The Fizz Platform
11 promotes genuine connections and community building in the world of social networking,
12 aligning with the broader needs of Gen-Z users that the platform was specifically designed to
13 address.

14 26. As part of its business model, Plaintiff has consistently positioned its Fizz
15 Platform for expansion into adjacent social utility services, including additional features related
16 to event planning, group participation, and logistical coordination. Given the nature of
17 Plaintiff's services—centered on facilitating social interaction and organizing group events such
18 as parties—the natural zone of expansion of the Fizz Platform includes the integration of
19 complementary services such as food and beverage coordination, RSVPs, and group purchasing.

20 **PARTIFUL AND PLAINTIFF HAVE BEEN COMPETING**

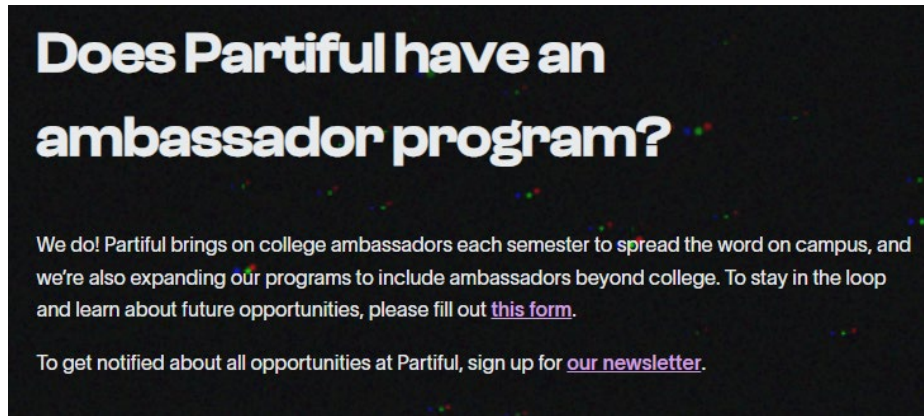
21 **DIRECTLY FOR EVENT PLANNING**

22 27. Partiful is a direct competitor of Fizz in the field of party and event planning.
23 Partiful's website describes its mission as follows: "You deserve a party page that hypes up
24 your event and makes it easier for guests to get the info they need. That's why we built
25 Partiful." See <https://partiful.com/about> (Last accessed on May 7, 2025).

26 28. It is recognized that Partiful targets a younger, Gen-Z demographic. As described
27 on Wikipedia: "The service has seen significant adoption among [Gen Z](#), [millennials](#) and startup
28 founders, with the majority of users under the age of 30." See

1 <https://en.wikipedia.org/wiki/Partiful> (Last accessed on May 7, 2025).

2 29. As a party-planning platform, Partiful competes directly with Plaintiff. For
3 example, Partiful is operating in the college market and competing through an “ambassador”
4 program, like Fizz:



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13 See [https://help.partiful.com/hc/en-us/articles/30577656210843-Does-Partiful-have-an-](https://help.partiful.com/hc/en-us/articles/30577656210843-Does-Partiful-have-an-ambassador-program)
14 [ambassador-program](https://help.partiful.com/hc/en-us/articles/30577656210843-Does-Partiful-have-an-ambassador-program) (Last accessed on May 7, 2025).

15 30. Partiful, which has failed to win the Gen-Z market through fair competition, now
16 seeks to use Plaintiff’s FIZZ Marks on goods and services identical to those offered by Plaintiff,
17 to confuse the Gen-Z demographic—precisely the market that Plaintiff serves.

18 31. On information and belief, Partiful has recruited a former Fizz employee who had
19 been actively engaged in promoting Fizz on college campuses. This individual is now involved
20 in promoting and supporting both Partiful and the Instacart’s Fizz App, as part of Defendants’
21 coordinated effort to expand their on-campus presence in direct competition with Plaintiff.
22 These efforts leverage knowledge, contacts, and institutional familiarity obtained through
23 Plaintiff’s former personnel.

24 **INSTACART’S PARTNERSHIP WITH PARTIFUL TO EXPAND INSTACART’S**
25 **REACH INTO THE GEN-Z DEMOGRAPHIC**

26 32. On about May 6, 2025, Instacart announced its new partnership with Partiful.
27 Instacart’s CEO, Fidji Simo, broadcast on the LinkedIn social media platform that Instacart had
28 just launched its new “Fizz” service with its “Partiful integration, which meets people right

where they're already planning to hang out.” She describes that the service allows people to “order together” and each to “pay your share”:

Posts by Fidji



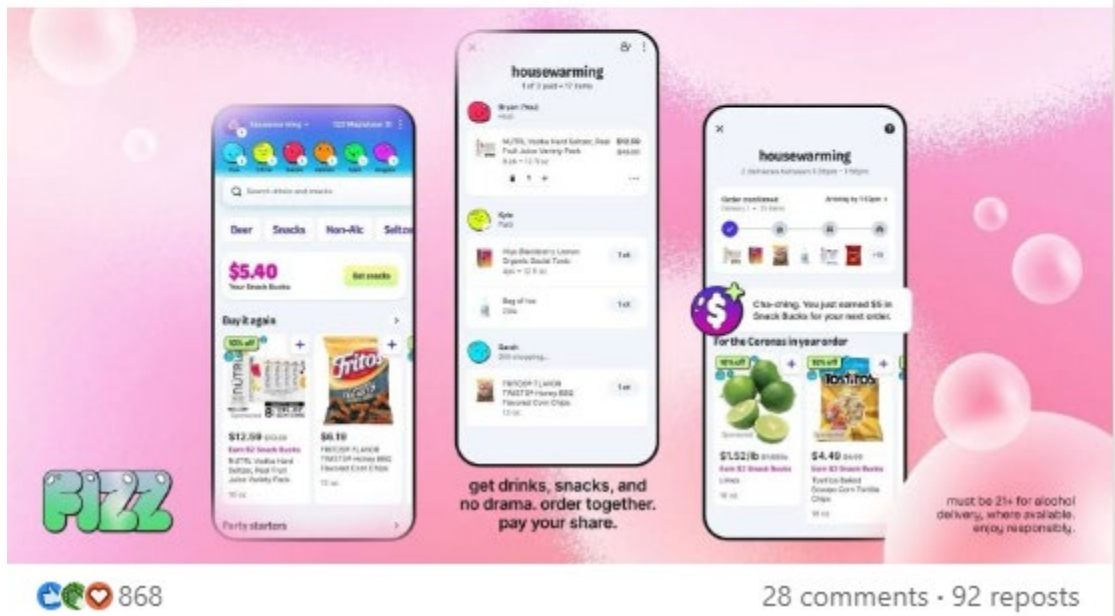
Fidji Simo • 2nd

CEO and Chair at Instacart, Board Member at OpenAI and Shopify
1d • 🌐

+ Follow ...

Say hi to Fizz, our new group ordering app for drinks and snacks launching today! It came together fast (111 days!) thanks to our incredible team and AI tools, and I'm especially excited about the Partiful integration, which meets people right where they're already planning to hang out. Check it out at fizz.com 🥂

<https://lnkd.in/gSBEWk7H>



33. Expressly, Instacart’s launch of the Fizz App is designed to target a younger audience. In an interview with Instacart’s chief product officer, Daniel Danker, the PYMNTS publication explained that “[Instacart](https://www.pymnts.com/news/retail/2025/instacart-introduces-alcohol-focused-fizz-app-to-tap-gen-z-market/) is reportedly rolling out an app targeting Generation Z consumers, centered around group orders of drinks and party snacks.” See <https://www.pymnts.com/news/retail/2025/instacart-introduces-alcohol-focused-fizz-app-to-tap-gen-z-market/> (Last accessed on May 7, 2025). Referring to the interview with Mr. Danker, the publication stated that: “He said that Fizz will be complementary to Instacart, with younger

users employing the app and then turning to Instacart as their ‘lives evolve.’” *Id.*

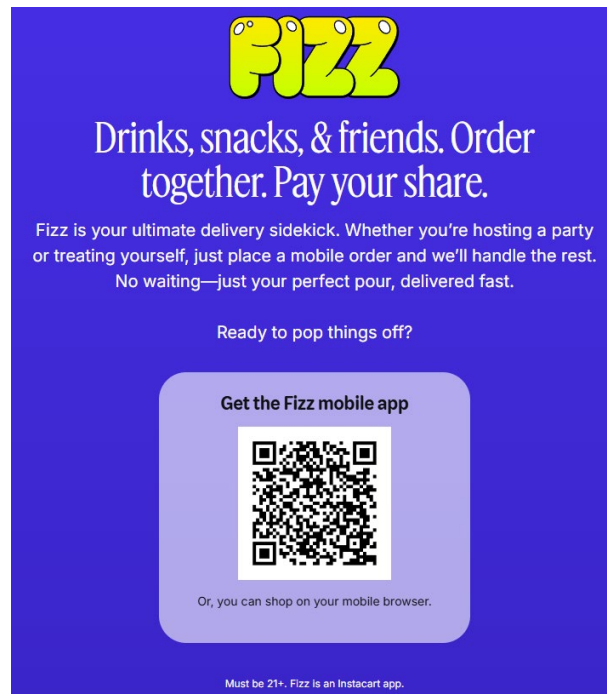
DEFENDANTS’ WRONGFUL CONDUCT

34. Despite Plaintiff’s longstanding prior use of the FIZZ Marks since at least 2022, and its established common law trademark rights therein, Defendants have adopted and are using the identical Infringing Mark FIZZ in connection with directly competing services. Both Instacart and Partiful are infringing Plaintiff’s FIZZ Marks.

35. Plaintiff’s Fizz Platform is widely known as the premier platform for event coordination, and Defendants know this. Defendants want to use Plaintiff’s widely known and loved brand to unfairly compete in the marketplace.

36. For example, Defendant Instacart uses the Infringing Mark in the Fizz App domain name, website, mobile application, social media channels, and associated advertising and marketing materials—all in connection with services that are confusingly similar to those offered by Plaintiff and targeted at the same Gen-Z demographic.

37. On information and belief, Instacart owns the website URL “www.fizz.com” and the homepage for that website (which says that “Fizz is an Instacart app”) is the following



1 promotion of the Fizz App, including the services offered through the Fizz App:

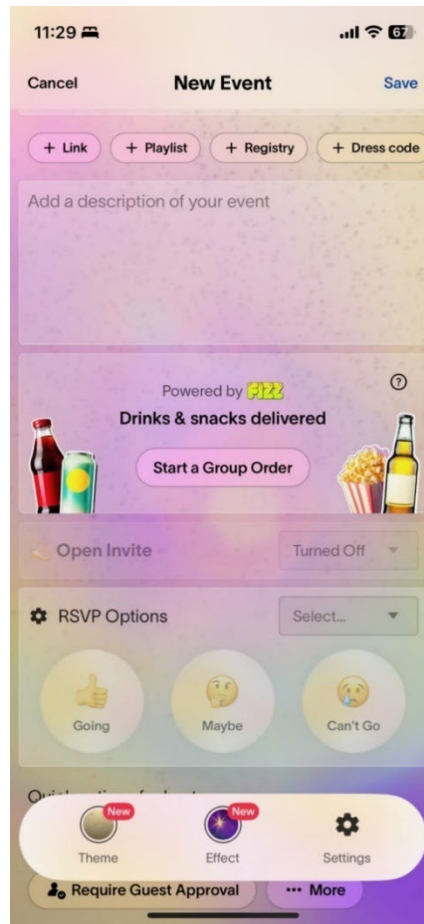
2 See <https://www.fizz.com/> (Last accessed on May 7, 2025). Expressly, Instacart
3 promotes its Fizz App if “you’re throwing a party.”

4 38. The social nature of Instacart’s Fizz App is underscored by its promotional
5 materials, such as the following illustration depicting various participants chiming in with
6 comments about their shopping contributions:

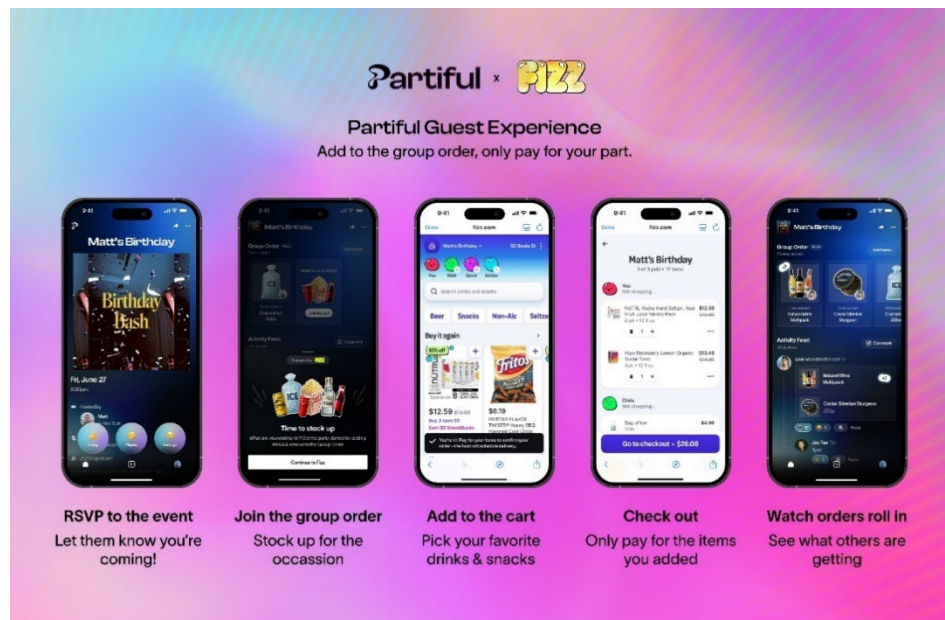


17 See <https://chainstoreage.com/instacart-debuts-fizz-group-ordering-app> (Last accessed on
18 May 7, 2025).

19 39. Likewise, Defendant Partiful uses the Infringing Mark on its website, mobile
20 application, and associated advertising and marketing materials by incorporating the Fizz App
21 into the existing Partiful app. Below is a screenshot from the Partiful app, using the mark FIZZ
22 in connection with its “Group Order” services:



40. Partiful's blog provides further description of the Fizz App, underscoring the social nature of the service ("Watch orders roll in... See what others are getting"):



1 See <https://partiful.com/blog/post/introducing-group-order-on-partiful> (Last accessed on
2 May 7, 2025).

3 41. Moreover, Defendants have submitted U.S. trademark applications for the
4 Infringing Mark that cover nearly identical subject matter to Plaintiff's trademark applications
5 for the Fizz Marks, further evidencing Defendants' bad faith. For example, Defendants'
6 trademark applications filed on May 5, 2025 seek coverage for their use of the Infringing Mark
7 with respect to at least Classes 009, 035, 042, and 045. See U.S. Trademark Application Serial
8 Nos. 99/170,731 (Class 009) 99/170,727 (Class 035), 99/170,723 (Class 042), and 99/170,721
9 (Class 045). Copies of the foregoing applications are attached as Exhibit 3 and incorporated
10 herein by reference.

11 42. Defendants' unauthorized use of the FIZZ Marks in connection with their social
12 coordination platform creates a high likelihood of confusion among consumers, who may
13 mistakenly believe that Defendants' application is affiliated with, endorsed by, or otherwise
14 connected to Plaintiff's established FIZZ Platform.

15 43. Defendants have no legitimate right or interest in the FIZZ Marks. They are not
16 connected or affiliated with Plaintiff and have not received a license or consent, express or
17 implied, to use the FIZZ Marks in any manner.

18 44. A TechCrunch May 6, 2025 article announcing the launch of the Fizz App
19 ([https://techcrunch.com/2025/05/06/instacart-launches-fizz-a-new-app-for-ordering-drinks-and-](https://techcrunch.com/2025/05/06/instacart-launches-fizz-a-new-app-for-ordering-drinks-and-snacks-for-parties/)
20 [snacks-for-parties/](https://techcrunch.com/2025/05/06/instacart-launches-fizz-a-new-app-for-ordering-drinks-and-snacks-for-parties/)) demonstrates that Defendants are currently using the identical Infringing
21 Mark in connection with a social coordination application designed specifically to enable Gen-Z
22 users to plan events and parties, coordinate gatherings, and facilitate social connections—
23 services that directly compete with and are confusingly similar to Plaintiff's core services:

24
25 With the launch of Fizz, Instacart is diversifying its revenue streams and offerings, all
26 while appealing to new types of customers. The social, party-planning aspect of Fizz
enables the company to tap into a younger demographic that may not be using Instacart.

27 45. Indeed, Instacart's press release on its own website confirms this strategy,
28 describing the Fizz App as "tailor-made for groups" and highlighting its "one-tap" social

coordination features. See <https://www.instacart.com/company/updates/introducing-fizz-the-best-way-to-order-drinks-and-snacks-as-a-group/> (Last accessed May 7, 2025). Instacart's Chief Product Officer, Daniel Danker, used the Infringing Mark repeatedly to describe the social coordination aspect of the Fizz App:

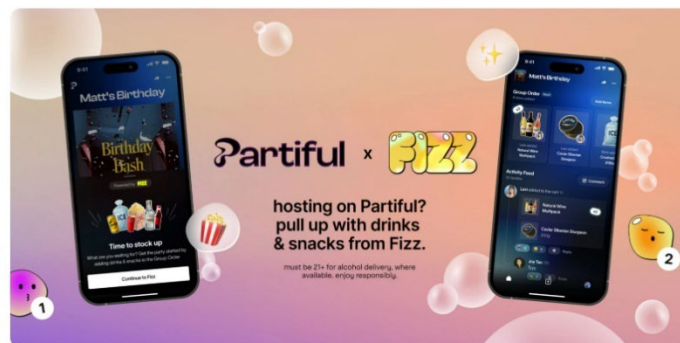
A party shouldn't feel like a chore. That's why today we're launching Fizz, an all-new app for drink and snack delivery and the easiest way to stock up for a party together. If you're 21+, just pick what you want, pay for what you add, and get it all delivered for one \$5 flat delivery fee. Fizz is tailor-made for groups. It takes just one tap to invite others into your Fizz cart, so everyone can choose what they want to bring. Everything is delivered right when you need it, no matter how many people participate, with no membership required.

46. As a part of the coordinated launch, Defendants' Fizz App was also integrated into Defendant Partiful's even-planning app. Through this integration, Defendants offer nearly identical services by enabling users to coordinate gatherings and organize social events, in direct competition with Plaintiff:

As part of the launch, event planning app Partiful has integrated Fizz directly into invites for hosts and guests. You and your guests will be able to tap the Fizz link to get started on a party cart. Everyone on the event page can see the whole cart right within Partiful... "With our new Fizz integration, we're solving another big logistical headache: stocking up for a gathering and making sure everyone's tastes are accounted for — bringing your whole event to life in a just a few taps," Partiful CEO Shreya Murthy said in a statement to TechCrunch.

See <https://techcrunch.com/2025/05/06/instacart-launches-fizz-a-new-app-for-ordering-drinks-and-snacks-for-parties/> (Last accessed on May 7, 2025).

The Perfect Mix: Fizz + Partiful 🍹



Partiful is the easiest way millions of users plan any kind of social event, from birthdays and nights out, to casual kickbacks and major celebrations. Now, with Fizz built in, Partiful hosts and guests can order what they need all in one place. Here's how it works:

Defendants' use of a copy, variation, simulation or colorable imitation of the FIZZ Marks in connection with social networking and event coordination goods and services infringes Plaintiff's exclusive rights in the FIZZ Marks, and is likely to cause confusion, mistake, or deception and constitutes trademark infringement, in violation of California common law.

55. Defendants' conduct is without Plaintiff's permission or authority. Upon information and belief, prior to beginning this use, Defendants had actual knowledge of Plaintiff's senior rights in the FIZZ Marks for social networking and event coordination goods and services. As a result, Defendants have committed their infringement with full knowledge of Plaintiff's rights in the FIZZ Marks, and have willfully, deliberately, and maliciously engaged in the described acts with an intent to injure Plaintiff.

56. Defendants' willful conduct has caused damage to Plaintiff in an amount to be determined at trial, and unless restrained, will continue to cause serious and irreparable injury for which there is no adequate remedy at law. Upon information and belief, Defendants have profited from this activity.

57. In light of the foregoing, Plaintiff is entitled to injunctive relief and to recover from Defendants all damages, including lost profits and attorneys' fees, that Plaintiff has sustained and will sustain as a result thereof, in an amount not yet known, as well as the costs of this action.

SECOND CAUSE OF ACTION

Federal Trademark Infringement (15 U.S.C. § 1125(a))

58. Plaintiff restates and realleges each of the allegations set forth above and incorporates them herein by this reference.

59. Defendants' use in commerce of the Infringing Mark in connection with the sale, offering for sale, distribution, and advertising of social networking and event coordination services delivered through online and/or mobile apps, in the United States is likely to cause confusion, mistake, or deception, and constitutes trademark infringement and false designation of origin in violation of the Lanham Act, 15 U.S.C. § 1125(a).

60. Defendant Instacart developed and launched the Fizz App under the infringing

1 FIZZ name. Defendant Partiful jointly promoted and integrated the infringing app into its own
2 services, prominently displaying the FIZZ mark in its platform interface, event invitations, blog
3 content, and other communications directed to its users.

4 61. Defendants' coordinated conduct creates a false impression that the Fizz App is
5 affiliated with, authorized by, or sponsored by Plaintiff. This includes Partiful's incorporation of
6 the FIZZ mark into its user-facing tools and marketing materials in a manner that reinforces the
7 misassociation and increases the likelihood of confusion.

8 62. Upon information and belief Defendants adopted the Infringing Mark with the
9 intent to unfairly compete with Plaintiff and to capitalize on the goodwill associated with the
10 FIZZ Marks.

11 63. Defendants' conduct is without Plaintiff's permission or authority. Upon
12 information and belief, prior to beginning this use, Defendants had actual knowledge of
13 Plaintiff's senior rights in the FIZZ Marks for social networking related goods and services. As
14 a result, despite this knowledge, Defendants have willfully, deliberately, and maliciously
15 engaged in the described acts with an intent to injure Plaintiff and to deceive the public.

16 64. Upon information and belief, Defendants have unlawfully profited from this
17 trademark infringement.

18 65. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
19 injury. Unless Defendants are restrained by the Court, Defendants will continue and/or expand
20 their unlawful activities alleged above, by infringing Plaintiff's FIZZ Marks and otherwise
21 continue to cause irreparable damage and injury to Plaintiff. No amount of money damages can
22 adequately compensate Plaintiff if it loses the ability to control the use of its mark, reputation,
23 and goodwill through the false and unauthorized use of its trademark. Plaintiff is therefore
24 entitled to injunctive relief prohibiting Defendants from using the Infringing Mark or any other
25 trademark or designation which is likely to be confused with the FIZZ Marks.

26 66. This is an exceptional case under 15 U.S.C. § 1117(a). Defendants' willful
27 conduct has caused damage to Plaintiff in an amount to be determined at trial, and unless
28 restrained, will continue to cause serious and irreparable injury for which there is no adequate

1 remedy at law.

2 67. In light of the foregoing, Plaintiff is entitled to recover all damages it has
3 sustained and will sustain as a result of Defendants' unlawful conduct, including but not limited
4 to lost profits, attorneys' fees, and the costs of this action. The full amount of such damages is
5 not yet known but, upon determination, should be enhanced pursuant to 15 U.S.C. § 1117(a).
6 Plaintiff is further entitled to an accounting of Defendants' profits derived from their violations
7 of the Lanham Act.

8 **THIRD CAUSE OF ACTION**

9 **Violation of Anti-Cybersquatting Consumer Protection Act (ACPA) (15 U.S.C. §** 10 **1125(d)) Against Defendant Instacart**

11 68. Plaintiff restates and realleges each of the allegations set forth above and
12 incorporates them herein by this reference.

13 69. The FIZZ Marks are distinctive and have been used by Plaintiff for over three
14 years in connection with its social networking and event coordination services.

15 70. Defendant Instacart has recently acquired the domain name <FIZZ.COM> (the
16 "Domain Name"), which wholly incorporates the FIZZ Marks. The infringing Domain Name
17 does not consist of the legal name of Defendant Instacart, nor does it consist of a name that is
18 otherwise commonly used to identify Instacart.

19 71. Before launching the Fizz App, Defendant Instacart had not made any prior use of
20 the infringing Domain Name in connection with the *bona fide* offering of any goods or services.

21 72. Plaintiff is informed and believes and thereupon alleges that Defendant Instacart
22 had a bad faith intent to profit from the FIZZ Marks when it registered the domain name
23 <FIZZ.COM>. Specifically, Defendant Instacart knew or should have known of the FIZZ
24 Marks and incorporated Plaintiff's trademark and trade name in its domain name. Plaintiff's
25 brand had received national press coverage, was actively in use across hundreds of college
26 campuses, and was prominently positioned in the Gen-Z event and community planning market.

27 73. Instacart registered and began using the infringing Domain Name only after
28 Plaintiff had developed substantial market recognition in the FIZZ name and built an

1 established commercial presence in the Gen-Z social event and party planning and coordination
2 space. Instacart had no legitimate interest in the FIZZ name or domain before Plaintiff's
3 adoption of the mark.

4 74. In doing so, Defendant Instacart intended to divert consumers from the Fizz
5 Platform's online location <FIZZ.SOCIAL> to the Fizz App online location for Defendant's
6 own commercial gain. Instacart selected the <fizz.com> domain to capitalize on the goodwill
7 and consumer recognition Plaintiff had generated in the FIZZ Marks. The infringing Domain
8 Name was adopted to divert internet users seeking Plaintiff's Fizz Platform and create a false
9 association with Plaintiff in the minds of consumers.

10 75. The launch of the Fizz App through <FIZZ.COM> was part of Instacart's
11 deliberate attempt to disrupt Plaintiff's business by flooding the digital marketplace with
12 confusingly similar branding, directly targeting Plaintiff's core demographic and service
13 offerings.

14 76. On information and belief, Instacart adopted the Domain Name to impair the
15 ability of Plaintiff to compete online, to interfere with Plaintiff's commercial strategy, and to
16 dominate search engine results and social discovery pathways associated with the FIZZ name.

17 77. Defendant Instacart's actions in registering and operating a web site on the
18 domain name <FIZZ.COM> are in violation of § 43(d)(1) of the Trademark Act, 15 U.S.C. §
19 1125(d)(1). Plaintiff has not authorized such use and has no affiliation or relationship with
20 Defendant Instacart.

21 78. Defendant Instacart and those persons who are in active concert or participation
22 with Defendant Instacart, has caused and continues to cause irreparable injury to Plaintiff,
23 including loss of control over its brand, reputational harm, dilution of its online presence, and
24 loss of consumer goodwill.

25 79. Defendant Instacart and those persons who are in active concert or participation
26 with Defendant Instacart, has caused and continues to cause irreparable injury to the general
27 public, which has an interest in being free of confusion, mistake, or deception.

28 80. Plaintiff's remedy at law is not adequate to compensate it for the injuries

1 Defendant Instacart inflicted on Plaintiff. Accordingly, Plaintiff is entitled to injunctive relief
 2 pursuant to 15 U.S.C. § 1116, transfer or cancellation of the domain name <FIZZ.COM>, and
 3 all other remedies available under 15 U.S.C. § 1125(d), including statutory damages and
 4 attorneys' fees.

5 **FOURTH CAUSE OF ACTION**

6 **Violation of California's Unfair Competition Laws**

7 **(Cal. Bus. & Prof. Code § 17200 *et. seq.*)**

8 81. Plaintiff restates and realleges each of the allegations set forth above and
 9 incorporates them herein by this reference.

10 82. Defendants' conduct as alleged herein constitutes unlawful, unfair, or fraudulent
 11 business acts or practices within the meaning of California Business and Professions Code §§
 12 17200, *et seq.*

13 83. Defendants' business practices alleged above are unlawful, unfair and fraudulent
 14 and offend public policy as they are unscrupulous, and substantially injurious to Plaintiff and to
 15 consumers.

16 84. Defendants' conduct constitutes willful and deliberate unfair competition in
 17 wanton disregard of Plaintiff's valuable intellectual property rights. Upon information and
 18 belief, Plaintiff has suffered damages and Defendants have obtained profits or been unjustly
 19 enriched as a result of Defendants' wrongful conduct.

20 85. Defendants have wrongfully obtained and retained benefits—including sales
 21 revenue, user acquisition, and goodwill—resulting from their unauthorized use of the FIZZ
 22 mark and confusion in the marketplace. Plaintiff has a vested interest in those diverted gains and
 23 is entitled to restitution under California law.

24 86. Defendants' conduct has directly and proximately caused and will continue to
 25 cause Plaintiff substantial and irreparable injury, including consumer confusion, injury to its
 26 reputation, and diminution in value of its intellectual property, and unless restrained, will
 27 continue to seriously and irreparably impair further the value of Plaintiff's FIZZ Marks, for
 28 which there is no adequate remedy at law.

87. In light of the foregoing, Plaintiff is entitled to equitable relief under Cal. Bus. & Prof Code §§ 17200, et seq., including restraining Defendants from engaging in further unlawful conduct.

FIFTH CAUSE OF ACTION

Contributory Trademark Infringement

(Against Defendant Partiful)

88. Plaintiff restates and realleges each of the allegations set forth above and incorporates them herein by this reference.

89. Defendant Partiful has knowingly facilitated, encouraged, and materially contributed to Instacart's infringement of Plaintiff's FIZZ Marks through its conduct in connection with the launch and promotion of the Instacart-owned Fizz App.

90. Defendant Partiful was aware, or should have been aware, of Plaintiff's longstanding use of the FIZZ Marks and the goodwill they had accrued among Gen-Z users. Despite this knowledge, Partiful proceeded to integrate and prominently display the infringing FIZZ mark within its own platform, event pages, mobile app, and promotional channels.

91. Partiful's conduct includes embedding Instacart's Fizz App into its platform, which Partiful controls, presenting it as part of its own event-planning tools, co-promoting the app as a co-branded feature, and distributing marketing content featuring the infringing FIZZ mark.

92. By integrating and promoting the infringing mark in this manner, Partiful materially contributed to consumer confusion and enabled the ongoing infringement by Instacart.

93. Partiful's conduct constitutes contributory trademark infringement under federal common law and the Lanham Act.

94. As a result of Partiful's conduct, Plaintiff has suffered and will continue to suffer irreparable harm, including loss of control over its mark, dilution of brand identity, and harm to its reputation. Plaintiff is entitled to injunctive relief, actual damages, and any additional relief the Court deems just and proper.

SUXTH CAUSE OF ACTION

Vicarious Trademark Infringement

(Against Defendant Partiful)

95. Plaintiff restates and realleges each of the allegations set forth above and incorporates them herein by this reference.

96. Partiful and Instacart have acted in concert and entered into a strategic partnership to jointly launch, brand, promote, and operate the infringing Fizz App.

97. As part of that partnership, Partiful and Instacart coordinated the use of the FIZZ mark and jointly developed the branding, messaging, and marketing campaigns surrounding the app's launch.

98. Partiful and Instacart each exercised control over, authorized, directed, and participated in the infringing activity, including how the FIZZ mark was presented to users, how the Fizz App was integrated into Partiful's services, and how the co-branded offering was publicly framed.

99. The partnership between Partiful and Instacart constitutes a relationship in which the parties share mutual control over the infringing product and derive mutual benefit from its promotion and use of the FIZZ mark.

100. As a result of this partnership and joint enterprise, Partiful is vicariously liable for the acts of infringement committed through the Instacart-owned Fizz App and related marketing.

101. Plaintiff is entitled to injunctive relief, an award of damages, and any other relief the Court deems just and proper.

SEVENTH CAUSE OF ACTION

Declaratory Relief

102. Plaintiff restates and realleges each of the allegations set forth above and incorporates them herein by this reference.

103. As a result of the acts described in the preceding paragraphs, there exists a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory

1 judgment that Defendants have no legitimate right or interest in the use of the FIZZ Marks,
 2 Defendant Instacart has no right to the Domain Name <FIZZ.COM>, and the registration of the
 3 Domain Name was an attempt, in bad faith, to attract traffic from Plaintiff's online location to
 4 its website.

5 104. A judicial declaration is necessary and appropriate so that Plaintiff may ascertain
 6 (1) its right to continue using Plaintiff's FIZZ Mark in connection with its goods and services as
 7 described in this First Amended Complaint; and (2) Defendants' use of "FIZZ" is likely to
 8 cause consumer confusion and does infringe, either directly or indirectly, Plaintiff's trademark
 9 rights under 15 U.S.C. § 1125(a) and Plaintiff's common law rights.

10 **PRAYER FOR RELIEF**

11 **WHEREFORE** Plaintiff requests that judgment be entered in its favor against
 12 Defendants as follows:

- 13 1. For an order and judgment that Defendants have infringed Plaintiff's trademarks
 14 in violation of Plaintiff's rights under federal law, common law, and/or California
 15 law;
- 16 2. For an order and judgment that Defendants have unfairly competed with Plaintiff
 17 in violation of Plaintiff's rights under 15 U.S.C. § 1125(a);
- 18 3. For an order and judgment that Defendants have acted in bad faith, willfully,
 19 intentionally, and/or in reckless disregard of Plaintiff's rights;
- 20 4. For an order and judgment that Defendants have violated California Business and
 21 Professions Code § 17200 et seq. by engaging in unlawful, unfair, and/or
 22 fraudulent business practices, and that Plaintiff is entitled to restitution and
 23 injunctive relief pursuant to California law;
- 24
- 25 5. For an order preliminarily and permanently enjoining and restraining Defendants
 26 and all persons in active concert or participation with them:
 - 27 a. From using or registering FIZZ Marks or any other trademark,
 28 tradename, domain name, or other designation that comprises or

includes “Fizz” in connection with the sale or advertisement of social networking and event coordination services;

b. To immediately transfer all domain names that include “Fizz” to Plaintiff; and From engaging in false conduct intended to mislead or confuse consumers such as that specified in this First Amended Complaint or other similar advertisements;

6. For an order requiring Defendants to permanently remove all references to “Fizz” or any other trademark, tradename, domain name, or other designation that comprises or includes “Fizz” from any website or social media platform;

7. For an order requiring Defendants to permanently cease marketing the Fizz App and using the Fizz name or the FIZZ Marks in connection with the sale or advertisement of social networking and event coordination services;

8. For an order requiring Defendants to file with the Court and serve upon Plaintiff within fifteen (15) days after issuance of any injunction, a report in writing under oath setting forth in detail the manner and form in which Defendants have complied with the injunction.

9. For an order awarding Plaintiff:

a. All profits derived by Defendants’ wrongful acts complained of herein;

b. All damages sustained by reason of Defendants’ wrongful acts complained of herein;

c. Treble the amount of actual damages suffered by Plaintiff under 15 U.S.C. § 1117(a);

d. Restitution for Defendants’ unfair business practices pursuant to Cal. Bus. & Prof. Code §§ 17200, et seq.;

e. Punitive and exemplary damages in an amount sufficient to deter and punish Defendants for their willful and wrongful acts;

f. Its costs incurred in this action;

1 g. Its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a); and

2 h. Pre-judgment and post-judgment interest;

3 10. For such other and further relief as the Court may deem appropriate.

4
5 Dated: August 7, 2025

ROBINS KAPLAN LLP

6
7 By: /s/ Steven Carlson
Steven Carlson
8 Li Zhu
Elvira Belle Borovik

9 Attorneys for Plaintiff Fizz Social Corp.

JURY DEMAND

Plaintiff hereby demands a trial by jury pursuant to Fed. R. Civ. P. 38.

Respectfully submitted,

Dated: August 7, 2025

ROBINS KAPLAN LLP

By: /s/ Steven Carlson
Steven Carlson
Li Zhu
Elvira Belle Borovik
Attorneys for Plaintiff Fizz Social Corp.